

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X Civil Action No.:

MARISOL PEREZ,

Plaintiff,

- against -

**NOTICE OF
REMOVAL**

BJ'S WHOLESALE CLUB, INC.,

Defendant.

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**TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK:**

Defendant, BJ'S WHOLESALE CLUB, INC. (hereinafter "BJ's"), upon information and belief, respectfully petitions the Court, pursuant to 28 U.S.C. 1441, as follows:

1. On or about July 1, 2020, the above-captioned civil action was commenced and is now pending in the Supreme Court of the State of New York, County of Bronx. A trial has not yet been had therein. A copy of the Summons and Complaint is annexed as **Exhibit "A"**. A copy of the affidavit of service is annexed as **Exhibit "B"**.

2. On or about July 22, 2020, BJ's filed its Verified Answer to plaintiff's Complaint. A copy BJ's Verified Answer is annexed as **Exhibit "C"**.

3. The action seeks monetary damages for personal injuries allegedly suffered by plaintiff, MARISOL PEREZ, while she was inside a BJ's Club located at 610 Exterior Street, Bronx, New York. Plaintiff's Complaint sounds in negligence. See Exhibit A.

4. The action involves a controversy between citizens of different states, in that: (a) Plaintiff is a citizen of the State of New York; and (b) Petitioner, BJ's, is now and was at the time the action was commenced a corporation incorporated in the State of Delaware with its principal place of business in the State of Massachusetts.

5. This action is one of which the District Courts of the United States have original jurisdiction under 28 U.S.C. § 1332. There is complete diversity between Petitioner and Plaintiff.

6. In addition, annexed as **Exhibit "D"** is plaintiff's Response to Discovery Demands, dated November 24, 2020, and received on December 24, 2020, in which plaintiff indicated that the amount in controversy exceeds \$75,000, specifically \$1,000,000. See Exhibit D at ¶ 1.

7. This Notice of Removal is being filed within thirty (30) days of receipt of plaintiff's written allegation that her alleged damages exceed \$75,000. See Exhibit D.

8. Written notice of the filing of this Notice of Removal will be given to plaintiff promptly after the filing of this Notice.

9. A true and correct copy of this Notice of Removal will be filed with the Clerk of the Court of the Supreme Court of the State of New York, County of Bronx, promptly after the filing of this Notice.

10. Attached to this Notice and by reference made a part hereof are true and correct copies of all process and pleadings filed herein.


11. By filing this Notice of Removal, BJ's does not waive any defense which may be available to it.

WHEREFORE, BJ's requests that the above-captioned action now pending in the Supreme Court in the State of New York, County of Bronx, be removed therefrom to this Honorable Court.

Dated: Garden City, New York
January 5, 2021

GOLDBERG SEGALLA LLP

By:


J. Daniel Velez, Esq.
Attorney for Defendant

Yours, etc.
Attorneys for Defendant
(jv-4709)
Mailing Address:
P.O. Box 780
Buffalo, NY 14201
200 Garden City Plaza, Suite 520
Garden City, New York 11530
516) 281-9800
File No.: 1342.0368

TO: Warren Zwirn, Esq.
ZWIRN & SAULINO, P.C.
Attorneys for Plaintiff
2606 East 15th Street, Suite 205
Brooklyn, New York 11235